



Committee: Directly to Council
Committee Review: N/A
Staff: Christine Wellons, Legislative Attorney
Purpose: To introduce agenda item – no vote expected

CORRECTED

AGENDA ITEM#2B
 January 11, 2022
Introduction

SUBJECT

Board of Health Regulation to prevent the spread of COVID-19 in the County, Vaccination Requirements to Enter Bars, Restaurants, Fitness Centers, and Other Covered Establishments

Lead Sponsor: Council President at the Request of the County Executive

EXPECTED ATTENDEES

- Dr. James C. Bridgers, Jr., Acting Health Officer
- Dr. Earl Stoddard, Assistant Chief Administrative Officer
- Dr. Raymond Crowell, HHS Director

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

Introduction of a Board of Health Regulation to prevent the spread of COVID-19 in the County, Vaccination Requirements to Enter Bars, Restaurants, Fitness Centers, and Other Covered Establishments.

DESCRIPTION/ISSUE

The resolution would approve a Board of Health regulation to:

- Require restaurants, bars, fitness centers, and other “covered establishments and facilities” – in a phased-in approach – to require patrons to provide proof of vaccination against COVID-19 before entering indoor areas;
- Exempt certain establishments and facilities from the requirement, including establishments and facilities providing essential government services and social services; and
- Exempt certain individuals from the requirement, including: (1) individuals who enter the facility for a quick and limited purpose; and (2) individuals who are entitled to medical or religious accommodations.

Under the regulation, the phased-in vaccination requirement would occur as follows:

- Effective January 22, 2022: proof of 1 dose required for patrons 12 years and older;
- Effective February 15, 2022: proof of all doses (excluding boosters) required for patrons 12 years and older; and
- Effective March 1, 2022: proof of all doses (excluding boosters) required for patrons 5 years-and-one-month and older.

This report contains:

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Health orders of other jurisdictions	© 7

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MEMORANDUM

January 6, 2022

TO: County Council

FROM: Christine Wellons, Legislative Attorney

SUBJECT: Resolution to approve a Board of Health Regulation to prevent the spread of COVID-19 in the County – Vaccination Requirements to Enter Bars, Restaurants, Fitness Centers, and Other Covered Establishments

PURPOSE: Introduction – no action required

Expected Attendees

Dr. James C. Bridgers, Jr., Acting Health Officer
Dr. Earl Stoddard, Assistant Chief Administrative Officer
Dr. Raymond Crowell, HHS Director

The Council, sitting as the Board of Health, is scheduled to introduce a Resolution to approve a Board of Health Regulation to prevent the spread of COVID-19 in the County – Vaccination Requirements to Enter Bars, Restaurants, Fitness Centers, and Other Covered Establishments. The resolution is sponsored by the Council President at the request of the County Executive. A public hearing and Council worksession on the resolution are tentatively scheduled for January 18, 2022.

The resolution would approve a Board of Health regulation to:

1. Require restaurants, bars, fitness centers, and other non-essential “covered establishments and facilities” – in a phased-in approach – to require patrons to provide proof of vaccination against COVID-19 before entering indoor areas;
2. Exempt certain establishments and facilities from the requirement, including establishments and facilities providing essential government services and social services; and
3. Exempt certain individuals from the requirement, including: (a) individuals who enter the facility for a quick and limited purpose; and (b) individuals entitled to medical or religious accommodations.

Under the regulation, the phased-in vaccination requirement would occur as follows:

1. Effective January 22, 2022: proof of 1 dose required for patrons 12 years and older;
2. Effective February 15, 2022: proof of all doses (excluding boosters) required for patrons 12 years and older; and
3. Effective March 1, 2022: proof of all doses (excluding boosters) required for patrons 5 years-and-one-month and older.

BACKGROUND

Several other local jurisdictions – including the District of Columbia and New York City – have instituted vaccine “passport” requirements, which prohibit individuals from entering certain non-essential businesses and establishments without proof of vaccination against COVID-19. Samples of other jurisdictions’ requirements are enclosed at ©7.

Experience in Other Jurisdictions

Council staff (Ms. Rodriguez-Hernandez) has provided the following research about the effects of vaccine passports in other domestic and international jurisdictions:

- **Domestic**

In the United States, approximately 20 states have banned vaccine passport requirements¹. A much smaller number of states, specifically jurisdictions within states (not whole states), have started to rollout vaccine passports that are tied to working in and accessing non-essential establishments. New York, Hawaii, and California were the first three states to have vaccine passports implemented within their borders. A summary of the limited information on known impacts is outlined below.

- New York City’s “Key to NYC” vaccine passport² is required to enter indoor dining, fitness, and entertainment/meeting venues. A month after the implementation of the passport, the City announced the vaccination rate increased by 9% overall, with a 13% increase for those ages 18-34. City officials canvassed over 50,000 businesses to receive their input on the passport. Since the implementation, only 15 businesses (of 31,000 business reviewed) were found in violation³. New York City is requiring those between 5-12 years old to at least have one shot and those 12-years-old + to be fully vaccinated.
- The Hawaii island of Oahu implemented the Safe Access Oahu program from September to November 2021. The program requires employees and visitors to be fully vaccinated or have a negative covid test result within 48 hours of entering the establishment. Children under 12 are exempt from this requirement. The Economic Research Organization at the University of Hawaii conducted a survey to assess the impacts of the vaccine/testing

¹ It is important to note that media does not clearly differentiate the term “vaccine passport” tied to accessing establishments and “digital certification” related to general access to personal covid vaccine records online.

² <https://www1.nyc.gov/site/doh/covid/covid-19-vaccines-keytonyc.page>

³ <https://www.nbcnewyork.com/news/local/vax-rate-increased-since-key-to-nyc-mandate-went-into-effect-last-month-de-blasio/3320602/>

requirement on businesses. A report has not yet been released with their findings, but the survey is closed.⁴

- While the City of San Francisco has required proof of vaccination for those 12 years of age and older to enter/work in indoor non-essential establishments since August 2021 (and removed the mask requirement), the city has recently announced that masks will be required again even for settings with “stable populations of fully vaccinated people.”⁵
- Anecdotally, businesses in all three jurisdictions are quoted with negative reactions towards the vaccine passport requirement.

- **International**

While vaccine requirements to enter non-essential establishments in the United States is limited and recent, several countries have implemented this requirement earlier in 2021.

A December 13, 2021, study⁶ comparing six countries that introduced covid vaccine passports (for access to non-essential sites) found that the requirement led to increased vaccinations between 20-days prior to the deadline and 40-days after the deadline in countries that had lower than average vaccination rates prior to the announcement. Specifically, increases in vaccination rates were seen in those younger than 20-years-old and 30-49 years-old. The countries included in the study had deadlines between April-August 2021: Denmark, Israel, Italy, France, Germany, and Switzerland. The study could not break down impacts based on race/ethnicity or socioeconomic status. The authors proclaim this is the first empirical study on the issue of covid certification and vaccine uptake.

Statutory Authority and Notice to Municipalities

Pursuant to Md. Code Ann. Local Government §10-328(b) a county may provide for the prevention of contagious diseases in the county. A local Board of Health may, pursuant to Md. Code Ann. Health Gen. §3-202(d), adopt and enforce rules and regulations on any cause of disease in the County. Pursuant to Montgomery County Code 2-65, the Montgomery County Council is and may act as the County Board of Health.

Rule 4(d) of the Council’s Rules of Procedure provides that before the Board of Health adopts a regulation, the Council President must advertise a public hearing in a newspaper circulated throughout the County at least 15 days before the hearing and notify the governing body or chief executive officer of each municipality in the County at least 15 days before the hearing. Rule 4(d) allows the President to waive these notice provisions if a public health emergency requires immediate action. The Council President has waived these notice requirements because of the public health emergency caused by COVID-19. Notice was sent to each municipality in the County on January 7, 2022.

Next Step: A public hearing and Council worksession on the resolution are scheduled for January 18, 2022.

⁴ <https://www.hawaiinewsnow.com/2021/09/16/new-survey-aimed-gauging-impacts-safe-access-oahu-businesses/>

⁵ <https://www.latimes.com/california/story/2021-12-29/san-francisco-and-other-bay-area-communities-tighten-mask-rules>

⁶ [https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667\(21\)00273-5/fulltext](https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667(21)00273-5/fulltext)

This packet contains:

Proposed Resolution
Similar orders in other jurisdictions
 District of Columbia
 New York City
 Philadelphia
 Chicago

Circle #

1
7
13
18
28

Resolution No.: _____

Introduced: January 11, 2022

Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE MONTGOMERY COUNTY BOARD OF HEALTH**

Lead Sponsor: Council President at the Request of the County Executive

SUBJECT: Board of Health Regulation to prevent the spread of COVID-19 in the County, Vaccination Requirements to Enter Bars, Restaurants, Recreation Centers, and Other Covered Establishments

Background

1. Lawrence J. Hogan, the Governor of the State of Maryland declared a state of emergency and catastrophic health emergency on March 5, 2020, to control and prevent the spread of SARS-CoV-2, a contagious disease, also known as COVID-19 within Maryland. The Governor’s declaration expired on August 15, 2021. Due to the rapid spread of the Omicron variant and associated strains on the healthcare system, the Governor issued a new declaration of a state of emergency and catastrophic health emergency effective January 4, 2022.
2. The COVID-19 pandemic threatens the health and welfare of Montgomery County residents, workers, and visitors and threatens to overwhelm the Montgomery County’s hospital capacity.
3. On November 26, 2021, the Centers for Disease Control and Prevention (“CDC”) classified Omicron as a “variant of concern.” In the past month, the daily case rate in the County has multiplied ninefold and is expected to rise further still.
4. The CDC has stated that vaccination is the most effective tool to mitigate the spread of COVID-19 and protect against severe illness. COVID-19 vaccines have proven to be safe and have remained highly effective in preventing severe illness, hospitalization, and death among vaccinated persons, even with the emergence and spread of the Delta and Omicron variants. Boosters are also increasingly proving to be important in protecting persons against the worst effects of COVID-19.
5. Vaccine requirements have resulted in more persons who were vaccine hesitant deciding to get vaccinated, thereby providing protection to themselves, those with whom they come in contact, and helping to maintain hospital capacity. Furthermore, subsequent increases in vaccine coverage help to reduce the amount of virus circulating in our community and protect those residents who remain at risk for severe disease despite getting vaccinated themselves, such as persons with immunosuppressive conditions or the elderly.
6. Indoor entertainment, recreation, dining, and fitness settings generally involve groups of unassociated people interacting for a substantial period of time and requiring vaccination

for all individuals in these areas will protect the public health, promote public safety, and reduce the risk to not just those vaccinated individuals but the public at large.

7. It is critically important that the County take immediate measures to mitigate the spread of COVID-19 and its health impacts to avoid further straining our health care facilities and hospitals and to avoid collateral health impacts on persons not suffering from COVID-19 but whose care is affected by the demands of COVID-19. Further, we must avoid overcrowding or any other deterrents to people seeking hospital and medical services, so that persons needing care do not delay care to the detriment of their own health.
8. In order to avoid closing non-essential businesses or re-imposing capacity limits, and to reduce the threat to human health caused by transmission of COVID-19, it is necessary and reasonable to require vaccinations at the types of establishments that residents frequent as it will incentivize vaccinations, thus increasing the County's vaccination rates.
9. The Montgomery County Executive, Marc Elrich, and the Acting Montgomery County Health Officer, James C. Bridgers, Jr., Ph.D., M.B.A., recommend that vaccinations be required at these types of establishments.
10. Pursuant to Md. Code Ann. Local Government §10-328(b) a county may provide for the prevention of contagious diseases in the county.
11. A local Board of Health may, pursuant to Md. Code Ann. Health Gen. §3-202(d), adopt and enforce rules and regulations on any cause of disease in the county. Pursuant to Montgomery County Code 2-65, the Montgomery County Council is and may act as the County Board of Health.
12. Rule 4(d) of the Council's Rules of Procedure provide that before the Board of Health adopts a regulation, the Council President must advertise a public hearing in a newspaper circulated throughout the County at least 15 days before the hearing and notify the governing body or chief executive officer of each municipality in the County at least 15 days before the hearing. Rule 4(d) allows the President to waive these notice provisions if a public health emergency requires immediate action. The Council President has waived these notice requirements because of the public health emergency caused by COVID-19.
13. The County Council, sitting as the Board of Health, finds after hearing the testimony and other evidence in the record of the public hearing that this public health regulation is necessary to protect the health of County residents.

Action

The County Council for Montgomery County, Maryland, sitting as the County Board of Health, finds that this is an emergency and approves the following regulation:

- 1 **1. Establishments Subject to Vaccination Entry Requirement.** The following
2 establishments and facilities (“covered establishments” or “covered establishments
3 and facilities”) must not permit a guest, visitor, or customer (“patron”) to enter the
4 indoor premises of the covered establishment or facility without displaying proof
5 of vaccination as required under Section 5 of this Order:
- 6 a. *Restaurants, bars, and nightclub establishments*, including restaurants and
7 taverns, coffee shops and fast-food establishments that have seating for
8 guests who choose to sit down to consume food or beverages, breweries,
9 wineries and distillery tasting rooms, mixed-use facilities, and food courts;
- 10 b. *Indoor entertainment establishments*, including nightclubs, pool and
11 billiard halls, bowling alleys, hookah and cigar bars, concert venues, live
12 entertainment and sporting venues, movie theatres, adult entertainment
13 venues, botanical gardens, museums and galleries, performing arts theaters,
14 arcades, indoor play areas, and other recreational game centers;
- 15 c. *Indoor exercise and recreational establishments*, including indoor portions
16 of standalone and hotel gyms and fitness centers, gyms and fitness centers
17 (including those in higher education institutions), yoga, Pilates, barre, and
18 dance studios, boxing/kickboxing gyms, fitness boot camps, public or
19 private indoor pools, County recreation centers, CrossFit or other
20 plyometric boxes, and other facilities used for conducting group fitness
21 classes;
- 22 d. *Indoor event and meeting establishments*, including hotel common rooms,
23 banquet halls, conference centers meeting facilities, convention centers,
24 exhibition halls, auditoriums; and
- 25 e. Any other indoor establishment designated by the Acting Health Officer or
26 the Health Officer’s designee, upon reasonable advance public notice.
- 27 **2. Establishments Not Subject to Vaccine Entry Requirement.** Except as specified
28 in paragraph 2.m., proof of vaccination is not required at the following
29 establishments or facilities:
- 30 a. Houses of worship;
- 31 b. Grocery stores, farmer’s markets, and food service establishments
32 providing charitable food services;

- 33 c. Pharmacies, medical offices, urgent care centers, or hospitals;
- 34 d. Big box stores, and other retail establishments where people tend to be in
- 35 motion and not standing or seated in close proximity to others for long
- 36 periods of time;
- 37 e. Private meeting spaces in residences or office buildings;
- 38 f. Facilities owned or operated by the federal, state, or County government
- 39 where the public accesses governmental services, including services by the
- 40 Department of Health and Human Services, licensing services,
- 41 administrative hearings, judicial proceedings, law enforcement, public
- 42 library services, legal services, housing and rental assistance, social
- 43 services, and services by the Department of Motor Vehicles;
- 44 g. Facilities relating to essential human services such as warming and cooling
- 45 centers, day service facilities for homeless persons, shelters serving
- 46 homeless persons or victims of domestic violence;
- 47 h. Polling places during elections;
- 48 i. Pre-kindergarten through grade twelve (12) public and non-public schools;
- 49 j. Child-care programs;
- 50 k. Senior centers and community centers; and
- 51 l. Such other facilities as exempted by the County's Health Officer or the
- 52 Health Officer's designee, upon reasonable advance public notice; or as
- 53 otherwise indicated by this Order.
- 54 m. If an exempt facility conducts a non-exempt activity, the vaccine
- 55 requirement must apply. (For example, if a house of worship is rented for
- 56 a non-religious purpose, the vaccine requirement applies. If a retail
- 57 bookstore hosts a seated event, proof of vaccination must be required to
- 58 enter the area where people will be closely congregated for a prolonged
- 59 time.)
- 60 **3. Individuals Exempt from Vaccination Entry Requirement.** The proof of
- 61 vaccination requirement under this Order does not apply to the following
- 62 individuals:
- 63 a. Individuals entering a covered establishment for a quick and limited
- 64 purpose (for example, placing an order for takeout, picking up an order, or

65 making a delivery); or

66 b. A person entitled by law to a reasonable accommodation due to a medical
67 condition or a sincerely held religious belief.

68 **4. Signage Requirement.** Covered facilities must post signage prominently at their
69 entrances notifying the public of the vaccination entry requirement under this
70 Order.

71 **5. Accepted Proof of Vaccination and Phased-In Effective Dates.**

72 a. Effective January 21, 2022 at 12:01 a.m., and except as provided under
73 Section 3, patrons entering a covered establishment must provide proof of
74 receipt of at least one dose of a COVID-19 vaccine authorized for
75 emergency use or licensed for use by the U.S. Food and Drug
76 Administration or authorized for emergency use by the World Health
77 Organization.

78 b. Proof of vaccination may be established by:

79 i. A CDC COVID-19 Vaccination Record Card or an official
80 immunization record from the jurisdiction, state, or country where
81 the vaccine was administered or a digital or physical photo of such
82 a card or record, reflecting the person’s name, vaccine brand, and
83 date administered; or

84 ii. A Certificate from [Maryland MyIR](#) or a digital or physical photo of
85 the certificate, reflecting the person’s name, vaccine brand, and date
86 administered.

87 c. Effective February 15, 2022 at 12:01 a.m., and except as provided under
88 Section 3, patrons twelve (12) years old or older entering a covered
89 establishment must provide proof of having received one dose of the
90 Johnson & Johnson COVID-19 vaccine or having received two doses of a
91 COVID-19 vaccine authorized for emergency use or licensed for use by the
92 U.S. Food and Drug Administration or authorized for emergency use by the
93 World Health Organization.

94 d. Effective March 1, 2022 at 12:01 a.m., and except as provided under Section
95 3, patrons ages five (5) years-and-one-month old through eleven (11) years
96 old entering a covered establishment must provide proof of having received

97 two doses of a COVID-19 vaccine authorized for emergency use or licensed
98 for use by the U.S. Food and Drug Administration or authorized for
99 emergency use by the World Health Organization.

100 **6. Enforcement.**

101 a. This Order must be enforced by any County department or agency that has
102 authority over the subject matter of any particular provision and the
103 Montgomery County Police Department.

104 b. Each instance that a covered entity fails to check an individual’s vaccination
105 status shall constitute a separate violation of this Order.

106 **7. Applicability.** This regulation applies Countywide.

107 **8. Severability.** If the application of this regulation or any part of it to any facts or
108 circumstances is held invalid, the rest of the regulation and its application to all
109 other facts and circumstances is intended to remain in effect.

110 **9. Effective Date.** This regulation takes effect on January 21, 2022, at 12:01 a.m.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.,
Clerk of the Council

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2021-148
December 22, 2021

SUBJECT: Vaccination Requirement for Entrance into Certain Indoor Establishments and Facilities

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422 of the District of Columbia Home Rule Act, approved December 24, 1973, Pub. L. 93-198, 87 Stat. 790, D.C. Official Code § 1-204.22 (2016 Repl.); section 5 of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981, D.C. Law 3-149, D.C. Official Code §§ 7-2304 and 7-2304.01 (2018 Repl.); and section 1 of An Act To authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939, 53 Stat. 1408, D.C. Official Code §§ 7-131 *et seq.* (2018 Repl.); and in accordance with the Foreclosure Moratorium Extension, Scheduled Eviction Assistance, and Public Emergency Extension Emergency Declaration Resolution of 2021, R 24-0337, effective December 21, 2021, and any subsequently-enacted authorizations to extend the public emergency, it is hereby **ORDERED** that:

I. BACKGROUND

1. The COVID-19 pandemic, including the exponential spread of its Omicron variant, threatens the health and welfare of District residents, workers, and visitors and threatens to overwhelm our hospital capacity.
2. More than 21 months after the World Health Organization declared a pandemic and the Secretary of the U.S. Department of Health and Human Services and the Mayor of the District of Columbia declared a public health emergency for the 2019 novel coronavirus, more than 51.4 million persons in the United States have been diagnosed with COVID-19 and more than 807,146 have died from the disease. Locally, transmission stands at a seven-day average of 123.8 new daily cases per 100,000 persons; total infections in the District have risen to 76,137; and tragically, 1,207 District residents have lost their lives due to COVID-19.
3. On November 26, 2021, the Centers for Disease Control and Prevention (CDC) classified Omicron as a Variant of Concern. Since then, the variant has been detected in the District. In the past month, the daily case rate in the District has multiplied ninefold and is expected to rise further still. More than 1,000 Washingtonians per day are now contracting COVID-19, and it is uncertain how many of them will experience symptoms of “long COVID”.

4. The COVID-19 vaccines that are authorized for use have proven to be safe and have remained highly effective in preventing severe illness, hospitalization, and death among vaccinated persons, even with the emergence and spread of the Delta and Omicron variants. Boosters are increasingly proving to be important in protecting persons against the worst effects of COVID-19.
5. Nearly 100% of COVID-19 related hospitalizations in the District in the past week occurred in unvaccinated persons, and the percent of hospitalized persons with COVID-19 since January 2021 who were fully vaccinated stands at 2.8%. Death due to COVID-19 in fully vaccinated persons remains a rare event.
6. In the District, the virus is spreading most rapidly among those aged 25-34, and 80% of recent cases are among residents under the age of 44. This population also tends to go out most to venues such as restaurants and taverns, nightclubs, concert and sporting venues. Vaccine coverage is also lower among residents under the age of 40 compared to older age groups.
7. Vaccine requirements have resulted in more persons who were vaccine hesitant deciding to get vaccinated, thereby providing protection to themselves, those with whom they come in contact, and helping to maintain hospital capacity. Furthermore, subsequent increases in vaccine coverage help to reduce the amount of virus circulating in our community and protect those residents who remain at risk for severe disease despite getting vaccinated themselves, such as persons with immunosuppressive conditions or the elderly.
8. It is critically important that the District take immediate measures to mitigate the spread of COVID-19 and its health impacts to avoid further straining our health care facilities and hospitals and to avoid collateral health impacts on persons not suffering from COVID-19 but whose care is affected by COVID-19. Further, we must avoid overcrowding or any other deterrents to people seeking hospital and medical services, so that persons needing care do not delay care to the detriment of their own health.
9. In order to avoid resorting to the more drastic remedy of closing non-essential businesses or re-imposing capacity limits, we must implement a vaccine requirement to preserve life, health, and hospital capacity, and to help ensure continuity of operations of government and business operations by preventing the long absences that ensue when a person contracts a severe case of COVID-19.
10. Therefore, this Mayor's Order requires certain public venues to implement a vaccination entry requirement for guests, visitors, and customers by January 15, 2022, in conformity with guidance to be issued by December 30, 2021 and as specified below.

II. VACCINATION ENTRY REQUIREMENT FOR CERTAIN ESTABLISHMENTS AND FACILITIES

1. Establishments Subject to Vaccination Entry Requirement

Starting on January 15, 2022, the following establishments and facilities (the "covered establishments and facilities") shall not permit a guest, visitor, or customer over twelve (12) years old to enter their indoor premises without displaying proof of vaccination against COVID-19:

- a. **Restaurants, bars and nightclub establishments**, including restaurants and taverns, coffee shops and fast-food establishments that have seating if guests choose to sit down; breweries, wineries and distillery tasting rooms; mixed-use facilities; food courts;
- b. **Indoor entertainment establishments**, including nightclubs, hookah bars, pool and billiard halls, and cigar bars; concert, live entertainment and sporting venues; movie theatres; adult entertainment venues; bowling alleys;
- c. **Indoor exercise and recreational establishments**, including exercise facilities, dance, yoga and pilates studios; any facilities used for group fitness classes;
- d. **Indoor event and meeting establishments**, including hotel common rooms, banquet halls, conference centers meeting facilities, convention centers, auditoriums; shared work facilities;
- e. Any other indoor establishment designated by the Director of the Department of Health.

2. Establishments Not Subject to Vaccine Entry Requirement

Except as specified in paragraph II.2.k, this proof of vaccine requirement imposed by paragraph II.1. does not apply to the following establishments or facilities:

- a. Houses of worship;
- b. Grocery stores, farmer's markets, and food service establishments providing charitable food services;
- c. Pharmacies, medical offices, urgent care centers, or hospitals;
- d. Big box stores and retail establishments where people tend to be in motion and not standing or seated in close proximity to others for long periods of time;

- e. Private meeting spaces in residences or office buildings;
- f. Facilities relating to governmental regulation, licensing, administrative hearings, judicial proceedings, law enforcement, the provision of legal services, and the Department of Motor Vehicles;
- g. Facilities relating to essential human services such as warming and cooling centers, day service facilities for homeless persons, shelters serving homeless persons or victims of domestic violence;
- h. Polling places during elections;
- i. Such other facilities as exempted by the Department of Health.
- j. If an exempt facility under Section II.3 conducts a non-exempt activity, the vaccine requirement shall apply. For example, if a house of worship is rented for a non-religious purpose, the vaccine requirement applies. If a retail bookstore hosts a seated event, proof of vaccination shall be required to enter the area where people will be closely congregated for a prolonged time.

3. **Individuals Exempt from Vaccination Entry Requirement**

The proof of vaccination requirement imposed by Section II.1. of this Order does not apply to the following individuals:

- a. Individuals entering a covered establishment for a quick and limited purpose (for example, placing an order for takeout, picking up an order, or making a delivery); or
- b. A person entitled by law to a reasonable accommodation due to a medical condition or a sincerely held religious belief.

4. **Signage Requirement**

Covered facilities shall prominently post signage at their entrances notifying the public of the vaccination entry requirement.

5. **Timing**

Covered facilities shall post signs and verify that entrants aged twelve (12) years and older has had a first vaccination by Sunday, January 15, 2022. Proof of having had a full initial course of vaccination will be required effective Tuesday, February 15, 2022. On those dates, the requirements take effect at 6:00 a.m.

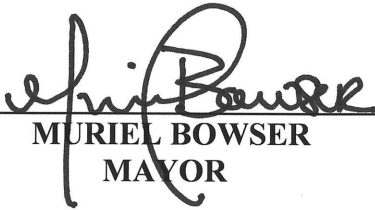
III. DELEGATION OF AUTHORITY

1. The Director of the Department of Health shall further specify the applicability of this Order and any reasonable accommodations that may be necessary including when a recent negative test may substitute for vaccination; the requirements for vaccination and any further phasing in of requirements for second shots or boosters; grace periods for children who recently turned twelve years old; acceptable proof of vaccination; signage requirements and where within a facility proof of vaccination must be verified.
2. The Deputy Mayor for Planning and Economic Development, in conjunction with the Department of Health, shall further outline a plan to help businesses understand, publicize, and enforce the vaccination requirements of this Order and provide for reporting complaints and violations;
3. The City Administrator or his designee shall be responsible for implementation and any necessary modification of the Order as it applies or does not apply to District government facilities;
4. Businesses and other entities may exclude persons and take appropriate employment actions against their employees who endanger themselves or others by being in violation of this Order or acting in violation of it, or in violation of a rule, order, or other issuance issued under the authority of this Order, other Mayor's Orders, or City Administrator's Orders relating to mitigating the spread of COVID-19 consistent with District and federal law.
5. All District government agencies that issue licenses, permits, certificates, endorsements, or other authorizations, including the Department of Consumer and Regulatory Affairs, the District Department of Transportation, the Alcoholic Beverage Regulation Administration, the Office of the State Superintendent of Education, the Department of For-Hire Vehicles, and the Department of Health may issue rules consistent with or take enforcement action directly under this Order or a rule, order, or other issuance issued under the authority of this Order to provide for the revocation, suspension, or limitation of a license, permit, certificate, endorsement, or other authorization of a person or entity that violates this Order.
6. Any individual or entity that knowingly violates this Order, or a rule, order, or other issuance issued under the authority of this Order, may be subject to civil and administrative penalties authorized by law, including sanctions or penalties for

violating section 8 of the District of Columbia Public Emergency Act of 1980, D.C. Official Code § 7-2307, which can result in civil fines of not more than \$1,000 or summary suspension or revocation of licenses.

IV. EFFECTIVE DATE AND DURATION

The first phase of implementation of this Order shall begin by January 15, 2022 at 6:00 a.m., and shall remain in effect until repealed, amended, or superseded.



MURIEL BOWSER
MAYOR

ATTEST: 

KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

EMERGENCY EXECUTIVE ORDER NO. 225

August 16, 2021

**KEY TO NYC: REQUIRING COVID-19 VACCINATION FOR
INDOOR ENTERTAINMENT, RECREATION, DINING AND FITNESS SETTINGS**

WHEREAS, the COVID-19 pandemic has severely impacted New York City and its economy, and is addressed effectively only by joint action of the City, State, and Federal governments;

WHEREAS, the state of emergency to address the threat and impacts of COVID-19 in the City of New York first declared in Emergency Executive Order No. 98, and extended most recently by Emergency Executive Order No. 220, remains in effect;

WHEREAS, this Order is necessary because of the propensity of the virus to spread person-to-person, and also because the actions taken to prevent such spread have led to property loss and damage;

WHEREAS, the U.S. Centers for Disease Control (“CDC”) reports that new variants of COVID-19, classified as “variants of concern,” are present in the United States;

WHEREAS, some of these new variants currently account for the majority of COVID-19 cases sequenced in New York City and are much more transmissible than earlier variants;

WHEREAS, the CDC has stated that vaccination is the most effective tool to mitigate the spread of COVID-19 and protect against severe illness;

WHEREAS, the CDC has also stated that vaccination benefits both vaccine recipients and those with whom they come into contact, including individuals who are ineligible for the vaccine due to age, health or other conditions;

WHEREAS, the recent appearance in the City of the highly transmissible Delta variant of COVID-19 has substantially increased the risk of infection;

WHEREAS, indoor entertainment, recreation, dining and fitness settings generally involve groups of unassociated people interacting for a substantial period of time and requiring vaccination for all individuals in these areas, including workers, will protect the public health, promote public safety, and save the lives of not just those vaccinated individuals but the public at large;

WHEREAS, 56% of City residents are fully vaccinated and 62% of residents have received at least one dose, and mandating vaccinations at the types of establishments that residents frequent will incentivize vaccinations, increasing the City's vaccination rates and saving lives; and

WHEREAS, a study by Yale University demonstrated that the City's vaccination campaign was estimated to have prevented about 250,000 COVID-19 cases, 44,000 hospitalizations and 8,300 deaths from COVID-19 infection since the start of vaccination through July 1, 2021, and the City believes the number of prevented cases, hospitalizations and death has risen since then; and that between January 1, 2021, and June 15, 2021, over 98% of hospitalizations and deaths from COVID-19 infection involved those who were not fully vaccinated;

NOW, THEREFORE, pursuant to the powers vested in me by the laws of the State of New York and the City of New York, including but not limited to the New York Executive Law, the New York City Charter and the Administrative Code of the City of New York, and the common law authority to protect the public in the event of an emergency:

Section 1. I hereby order that a covered entity shall not permit a patron, full- or part-time employee, intern, volunteer, or contractor to enter a covered premises without displaying proof of vaccination and identification bearing the same identifying information as the proof of vaccination.

§ 2. I hereby order that the following individuals are exempted from this Order, and therefore may enter a covered premises without displaying proof of vaccination, provided that such individuals wear a face mask at all times they are unable to maintain six (6) feet of distance from other individuals inside the covered premises:

- a. Individuals entering for a quick and limited purpose (for example, using the restroom, placing or picking up an order or service, changing clothes in a locker room, or performing necessary repairs);
- b. A nonresident performing artist not regularly employed by the covered entity while they are in a covered premises for purposes of performing;
- c. A nonresident professional athlete/sports team who enters a covered premises as part of their regular employment for purposes of competing; and
- d. A nonresident individual accompanying a performing artist or professional athlete/sports team into a covered premises as part of their regular employment so long as the performing artist or professional athlete/sports team are performing or competing in the covered premises.

§ 3. I hereby direct each covered entity to develop and keep a written record describing the covered entity's protocol for implementing and enforcing the requirements of this Order. Such written record shall be available for inspection upon a request of a City official as allowed by law.

§ 4. I hereby direct each covered entity to post a sign in a conspicuous place that is viewable by prospective patrons prior to entering the establishment. The sign must alert patrons to the vaccination requirement in this Order and inform them that employees and patrons are required to be vaccinated. The Department for Health and Mental Hygiene ("DOHMH") shall determine the text of such sign and provide a template on its website that a covered entity may use. A covered entity may use the sign available online at nyc.gov/keytoNYC, or use its own sign provided its sign must be no smaller than 8.5 inches by 11 inches, with text provided by DOHMH in at least 14-point font.

§ 5. For the purposes of this Order:

a. "Contractor" means the owner and/or employees of any business that a covered entity has hired to perform work within a covered premise, except that it shall not include nonresident owners and/or employees.

b. "Covered entity" means any entity that operates one or more covered premises, except that it shall not include pre-kindergarten through grade twelve (12) public and non-public schools and programs, child care programs, senior centers, community centers, or as otherwise indicated by this Order.

c. "Covered premises" means any location, except a location in a residential or office building the use of which is limited to residents, owners, or tenants of that building, that is used for the following purposes:

(i) **Indoor Entertainment and Recreational Settings**, including indoor portions of the following locations, regardless of the activity at such locations: movie theaters, music or concert venues, adult entertainment, casinos, botanical gardens, commercial event and party venues, museums and galleries, aquariums, zoos, professional sports arenas and indoor stadiums, convention centers and exhibition halls, performing arts theaters, bowling alleys, arcades, indoor play areas, pool and billiard halls, and other recreational game centers;

(ii) **Indoor Food Services**, including indoor portions of food service establishments offering food and drink, including all indoor dining areas of food service establishments that receive letter grades as described in section 81.51 of the Health Code; businesses operating indoor seating areas of food courts; catering food service establishments that provide food indoors on its premises; and any indoor portions of food service establishment that is regulated by the New York State Department of Agriculture and Markets offering food for on-premises indoor consumption. The requirements of this Order shall not apply to any food service establishment offering food and/or

drink exclusively for off-premises or outdoor consumption, or to a food service establishment providing charitable food services such as soup kitchens;

(iii) **Indoor Gyms and Fitness Settings**, including indoor portions of standalone and hotel gyms and fitness centers, gyms and fitness centers in higher education institutions, yoga/Pilates/barre/dance studios, boxing/kickboxing gyms, fitness boot camps, indoor pools, CrossFit or other plyometric boxes, and other facilities used for conducting group fitness classes.

d. “Indoor portion” means any part of a covered premises with a roof or overhang that is enclosed by at least three walls, except that the following will not be considered an indoor portion: (1) a structure on the sidewalk or roadway if it is entirely open on the side facing the sidewalk; and (2) an outdoor dining structure for individual parties, such as a plastic dome, if it has adequate ventilation to allow for air circulation.

e. “Nonresident” means any individual who is not a resident of New York City.

f. “Patron” means any individual 12 years of age or older who patronizes, enters, attends an event, or purchases goods or services within a covered premise.

g. “Identification” means an official document bearing the name of the individual and a photo or date of birth. Examples of acceptable identification include but are not limited to: driver’s license, non-driver government ID card, IDNYC, passport, and school ID card.

h. “Proof of vaccination” means proof of receipt of at least one dose of a COVID-19 vaccine authorized for emergency use or licensed for use by the U.S. Food and Drug Administration or authorized for emergency use by the World Health Organization. Such proof may be established by:

i. A CDC COVID-19 Vaccination Record Card or an official immunization record from the jurisdiction, state, or country where the vaccine was administered or a digital or physical photo of such a card or record, reflecting the person’s name, vaccine brand, and date administered; or

ii. A New York City COVID Safe Pass (available to download on Apple and Android smartphone devices); or

iii. A New York State Excelsior Pass.

§ 6. I hereby direct that each instance that a covered entity fails to check an individual’s vaccination status shall constitute a separate violation of this Order.

§ 7. I hereby direct the City's Commission on Human Rights to develop guidance to assist covered entities in complying with this Order in an equitable manner consistent with applicable provisions of the New York City Human Rights Law.

§ 8. I hereby direct, in accordance with Executive Law § 25, that staff from any agency as may hereafter be designated by the DOHMH Commissioner shall enforce the directives set forth in this Order.

§ 9. I hereby direct that any person or entity who is determined to have violated this Order shall be subject to a fine, penalty and forfeiture of not less than \$1,000. If the person or entity is determined to have committed a subsequent violation of this Order within twelve months of the initial violation for which a penalty was assessed, such person or entity shall be subject to a fine, penalty and forfeiture of not less than \$2,000. For every violation thereafter, such person or entity shall be subject to a fine, penalty and forfeiture of not less than \$5,000 if the person or entity committed the violation within twelve months of the violation for which the second penalty was assessed. This Order may be enforced pursuant to sections 3.05, 3.07, and/or 3.11 of the Health Code and sections 558 and 562 of the Charter. I hereby suspend Appendix 7-A of Chapter 7 of the Rules of the City of New York to the extent it would limit a violation of this Order to be punished with a standard penalty of \$1,000 or a default penalty of \$2,000.

§ 10. Covered entities shall comply with further guidelines issued by DOHMH to further the intent of this Order and increase the number of vaccinated individuals in the City.

§ 11. This Emergency Executive Order shall take effect on August 17, 2021, except for section 9 of this Order, which shall take effect on September 13, 2021.



Bill de Blasio,
MAYOR



**EMERGENCY REGULATION
GOVERNING THE CONTROL AND PREVENTION OF COVID-19
MANDATING VACCINES FOR INDIVIDUALS WORKING AND DINING AT
INDOOR DINING LOCATIONS**

WHEREAS, on March 6, 2020, in response to the 2019 novel coronavirus disease, COVID-19, the Governor of Pennsylvania issued a Proclamation of Disaster Emergency, and on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic, or global epidemic; and

WHEREAS, on March 11, 2020, the Mayor issued a “Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning a Novel Coronavirus” to allow the City to promulgate emergency regulations on a shortened time frame in order to address the public health emergency posed by COVID-19, while the formal procedures for promulgating regulations pursuant to Section 8-407 are followed; and

WHEREAS, on March 12, 2020, the Board added COVID-19 to the City’s list of reportable and quarantinable diseases; and

WHEREAS, since March 12, 2020, the Board has promulgated and rescinded numerous disease control and prevention regulations as needed to address the ebbs and flows of the COVID-19 pandemic; and

WHEREAS, since the beginning of the pandemic there have been more than 18,800 COVID-19 hospitalizations and 4,000 COVID-19 deaths in Philadelphia; and

WHEREAS, case rates from November to current are rapidly rising, and Philadelphia has moved from a substantial transmission level of less than 99 COVID-19 cases per 100,000 people to an average of approximately 293 new COVID-19 cases per 100,000 people identified per day in Philadelphia, which places Philadelphia in the Centers for Disease Control and Prevention’s high transmission category (which includes any location over 100 or more cases per 100,000); and

WHEREAS, COVID-19 hospitalizations in Philadelphia hospitals have risen by more than 50% in the 2 weeks between November 26 to December 10, 2021, from 208 hospitalizations on November 26th, to 337 hospitalizations on December 10th, and 79% of COVID-19 hospitalizations were unvaccinated individuals; and

WHEREAS, the City’s post-Thanksgiving COVID-19 percent positivity rate peaked at more than three times its October rate heading into the Fall and Winter of 2020 and transmission is

expected to similarly increase as we head into the Winter of 2021; and

WHEREAS, there is substantial evidence that widespread mask use can prevent the spread of COVID-19, and observational data has suggested that people who wear masks and become infected may be less likely to develop severe disease; and

WHEREAS, inside activities, and in particular inside activities where individuals gather without masks and where individuals gather for extended periods, or both, increase the likelihood of the spread of COVID-19; and

WHEREAS, studies have indicated and public health experts have concluded that indoor dining is a significant driver of the COVID-19 pandemic, in part because it is not possible to wear a mask while eating or drinking; and

WHEREAS, safe, highly effective COVID-19 vaccines are now widely available in the United States; and

WHEREAS, administration of a COVID-19 vaccine is a medically accepted and recommended form of prophylactic treatment that dramatically reduces the likelihood of experiencing a symptomatic SARS-CoV-2 infection, and recent studies show that available COVID-19 vaccines also reduce asymptomatic infection and transmission; and

WHEREAS, COVID-19 vaccines are now readily available for all eligible individuals five years of age and older, while those four years of age and under remain ineligible for vaccination and therefore subject to greater exposure of infection and transmission; and

WHEREAS, it is well established that COVID-19 vaccines remain effective even against infection with the Delta variant and other recent variants of concern; and

WHEREAS, broad distribution and uptake of COVID-19 vaccines is essential to ending the COVID-19 pandemic; and

NOW, THEREFORE, pursuant to its authority under the Pennsylvania Disease Prevention and Control Law of 1955, Section 6-210 of The Philadelphia Code, Section 8-407 of the Philadelphia Home Rule Charter, and the Mayor's "Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning a Novel Coronavirus," the Board of Health hereby adopts the following emergency regulation, effective immediately upon delivery to the Department of Records, while the remaining procedures and formalities of Section 8-407 are followed to promulgate this as a formal regulation:

Section 1. Definitions.

Approved COVID-19 Vaccine. A vaccine that has been authorized or approved by either the Food and Drug Administration or the World Health Organization to prevent COVID-19, whether for emergency use or otherwise.

Completed Vaccination Series. An individual is considered to have received a Completed Vaccination Series when the individual has received the second dose in a two-dose series of an Approved COVID-19 Vaccine or a single dose in a one-dose Approved COVID-19 Vaccine.

Indoor Dining Location. Any location, whether open to the public or private, including personal residences, where food or drink is sold or served indoors for consumption onsite, except as follows.

The term does not include:

- (A) A location where only drinking water is served or permitted.
- (B) Early childhood education and K-12 schools.
- (C) Hospitals, congregate care facilities, or other residential or healthcare facilities.
- (D) Any location where food or drink is consumed as part of a religious practice.
- (E) A location where food or drink is sold by vending machine only and which does not contain a designated indoor eating area.
- (F) Any portion of a location that is outdoors, meaning the area is fully open to the outside on two or more sides, provided that entrance into any associated indoor food or drink service or eating areas are actively monitored to ensure compliance with this Regulation.
- (G) With respect to a business or commercial location where any indoor eating area is entirely segregated from other portions of the facility, the portion of the facility that is physically segregated from any indoor eating areas, provided that entrance into any such indoor eating areas are actively monitored by the business to assure compliance with this Regulation.
- (H) Food courts or markets, grocery stores, and airport facilities, except as specifically provided in subsection (B) of Section 2, below.
- (I) Food service locations that provide free food to those who may be homeless or in urgent need of food, such as soup kitchens.

Indoor Dining Worker. Any individual that works at an Indoor Dining Location in any capacity.

Section 2. Limitations on Unvaccinated Individuals in Indoor Dining Locations.

- (A) **General Rule - Businesses Serving or Providing Food at an Indoor Dining Location.**

Effective January 3, 2022, no business serving or providing food at an Indoor Dining shall allow any individual onsite at such location unless such individual meets the vaccination requirements set forth in this Section and in Sections 3 (Vaccination and Exemption Requirements for Indoor Dining Workers), 4 (Vaccination and Exemption Requirements for Customers and Other Non-Indoor Dining Workers), and 5 (Requirements for Athletes, Performers, and Supporting Staff), below, as applicable. In summary, and subject to applicable medical and religious exemptions as provided in the relevant sections identified below:

- **Indoor Dining Workers.** Effective January 3, 2022, such workers must have received at least one dose of an Approved COVID-19 Vaccine and, if applicable, effective February 3, 2022, must have received a Completed Vaccination. *See* Section 3, below.
- **Diners and other Non-Indoor Dining Workers Twelve (12) Years of Age and Over.** Effective January 3, 2022, such diners must have received a Completed Vaccination Series to dine at an Indoor Dining Location. *See* Section 4(A), below.
- **Diners 5 years and 3 Months of Age and Over but Under Twelve (12) Years of Age.** Effective January 3, 2022, such diners must have received at least one dose of an Approved COVID-19 Vaccine, and effective February 3, 2022, such diners must have received a Completed Vaccination Series to dine at an Indoor Dining Location. *See* Section 4(C), below.
- **Diners younger than 5 years and 3 months of age** are exempt from the requirements of this Regulation. *See* Section 4(C), below.
- **Athletes, performers, and supporting staff** are subject to the details of safety plans approved by the Department for the relevant facility. *See* Section 5, below.

Nothing in this regulation applies to individuals present at an Indoor Dining Location for a short duration (less than 15 minutes) for the purpose of picking up food to take out, using the restroom, or for a similarly short and transitory purpose, provided the individual is masked at all times.

This Regulation shall not preclude any business from establishing more strict vaccine requirements for its workforce, contractors, volunteers, customers or clientele, including requiring all persons onsite to be vaccinated (to the extent otherwise permitted under applicable law).

(B) Application to Specific Indoor Dining Locations.

(i) Onsite Dining at Grocery Stores, Food Courts, and Similar Locations.

With respect to food service at grocery stores that provide areas for dining on site; take-away food service at sports stadiums; food courts and markets, meaning locations containing multiple indoor food service locations providing food for take away service where general seating is provided for use by customers of any of the multiple food service locations; and similar locations; the vaccination requirements do not apply to take out only portions of such facilities – or to food

service locations that provide take out service only. The vaccination requirements of this Regulation shall only apply to the following locations in such facilities:

(.1) Any generally accessible seating area where food or drink can be consumed by customers. Such seating must be cordoned off and screening must be provided to prevent access to those who do not comply with the vaccination requirements required by this Regulation. Indoor Dining Workers serving such seating area must also comply with the vaccination requirements.

(.2) Any establishment in a grocery store, food court or market, or similar location that provides an indoor seating area that is used for dining associated with such establishment, such as seating at a counter served by the establishment or a seating area associated with an establishment at which table service is provided. Customers making use of such seating area and all workers at such establishment must comply with the vaccination requirements of this Regulation.

(ii) Onsite Eating Locations at Airport Facilities. With respect to food service and dining locations in airport facilities, the vaccination requirements of this Regulation do not apply to such facilities, except with respect to the following specific food service and dining locations:

(.1) Any location that provides a restaurant style indoor seating area that is used for the consumption of food or beverages sold by such establishment that is enclosed from other areas of the airport on three or more sides. Customers making use of such seating area and all workers at such establishment must comply with the vaccinate requirements of this Regulation.

(.2) Any establishment that provides seating at a bar-style service counter that is used for consumption of food or beverages sold exclusively by such establishment. Customers making use of such counter area and all workers at such establishment must comply with the vaccination requirements of this Regulation.

(C) Additional Testing Requirements for Indoor Dining Locations that Seat Over 1,000 Customers. Indoor Dining Locations that seat over 1,000 customers, such as sports and large entertainment venues, must require any unvaccinated individual over five (5) years and three (3) months of age that qualifies for an exemption or exception under Section 4(b) or (c) of this Regulation to submit proof of a negative PCR or antigen test for COVID-19 from a sample that was collected from such individual within the twenty-four (24) hours preceding such individuals' entrance into the Indoor Dining Location.

(D) Private Event Spaces and Homes. Effective January 3, 2022, no individual may host or permit a gathering of 25 (twenty-five) or more individuals at an Indoor Dining Location in any private place, including a residence, private club, church or other facility, unless all attendees either (i) have received a Completed Vaccination Series; or (ii) qualify for an exemption or exception under Section 4(b) or (c) of this Regulation.

(E) Optional Exception for Testing Prior to January 17, 2022: Notwithstanding

any other provisions of this regulation, prior to January 17, 2022, a business may choose to accept proof of a negative PCR or antigen test for COVID-19 from a sample that was collected from an individual within twenty-four (24) hours of the date of entrance to the Indoor Dining Location in lieu of requiring an individual to provide a vaccination status or claim an exemption. This authorization expires on January 17, 2022.

Section 3. Vaccination and Exemption Requirements for Indoor Dining Workers.

(A) General Rule – Indoor Dining Workers. No business serving or providing food at an Indoor Dining Location shall employ (including self-employ), contract with, or otherwise utilize the services of an Indoor Dining Worker after the relevant dates below unless such Indoor Dining Worker: (a) has been vaccinated in accordance with the following requirements; or (b) has received an exemption under Section 3(B), below, from such Indoor Dining Worker’s employer or the individual or entity that has engaged such Indoor Dining Worker’s services, and such worker complies with the accommodations adopted by the business for unvaccinated Indoor Dining Workers:

(i) Effective **January 3, 2022**, an Indoor Dining Worker must have received at least one dose of an Approved COVID-19 Vaccine.

(ii) Effective **February 3, 2022**, an Indoor Dining Worker must have received a Completed Vaccination Series.

(B) Exemptions and Accommodations for Indoor Dining Workers.

For the purposes of this Regulation only, and unless the business has adopted more strict requirements for its operations (subject to applicable law), a business subject to this Regulation shall grant an Indoor Dining Worker an exemption from the vaccination requirements of this Regulation if such individual qualifies for one or both of the exemptions below and agrees in writing to abide by the accommodation(s) required by the business serving or providing food at the Indoor Dining Location.

(i) Medical Exemption. For the purpose of this Regulation only, an exemption shall be granted if the business employing or otherwise engaging the services of the Indoor Dining Worker determines that the administration of any COVID-19 vaccine is contraindicated because the administration would be detrimental to the health of the Indoor Dining Worker. An Indoor Dining Worker shall request an exemption by submitting a certification from a licensed healthcare provider (meaning a physician, nurse practitioner, or physician assistant, licensed by an authorized state licensing board) that has provided an in-person physical examination of the Indoor Dining Worker on at least one occasion certifying that the exemption applies and stating the specific reason that the vaccine is contraindicated for the Indoor Dining Worker. Such certification must be signed by both the healthcare provider and the Indoor Dining Worker subject to the requirements and penalties of Section 1-108 of The Philadelphia Code and in substantially the same form as a sample certification that the Department shall make available on the Department’s website.

(ii) Religious Exemption. For the purpose of this Regulation only, an

exemption shall be granted if the Indoor Dining Worker certifies in writing that such individual has a sincerely held religious belief that precludes such worker from receiving the COVID-19 vaccination and that the worker understands that philosophical, moral, or other non-religious objections to receiving the vaccine will not be accepted. Such certification must be signed by the Indoor Dining Worker subject to the requirements and penalties of Section 1-108 of The Philadelphia Code and in substantially the same form as a sample certification that the Department shall make available on the Department's website.

(C) Accommodations for Exempt Indoor Dining Workers: For the purpose of this Regulation only, each business serving or providing food at an Indoor Dining Location or at an Indoor Dining Location shall take steps to assure that each Indoor Dining Worker that has been granted an exemption under Section 3(B), above, is tested for COVID-19 on at least a weekly basis, and shall adopt one or more of the following accommodations for each such Indoor Dining Worker, provided that all individuals in such location must continue to wear face masks or other face coverings consistent with the June 15, 2021 Emergency Order Establishing Safety Measures for Full Reopening to Prevent the Spread of COVID-19, as it has been amended:

(i) Masking: Requiring the exempt Indoor Dining Worker to double mask indoors at all times while working. For the purpose of this Regulation, double masking means wearing a cloth mask tightly fitted over a properly fitted surgical mask or wearing a well fitted respirator equivalent to an N95.

(ii) Virtual accommodation: If feasible, allowing an Indoor Dining Worker to engage with the business through any manner such that the individual does not come into contact with other workers or customers of the business at any Indoor Dining Location.

(D) Documentation Required: Each business subject to this regulation shall maintain documentation of the vaccination status of each affiliated Indoor Dining Worker, any exemption requested by an Indoor Dining Worker under this Section, including all certifications submitted, whether or not such exemption request was granted and why, the accommodation or accommodations granted to each exempt Indoor Dining Worker, and records of ongoing COVID-19 testing for each exempt Indoor Dining Worker.

Section 4. Vaccination and Exemption Requirements for Diners and Other Non-Indoor Dining Workers.

(A) General Rule – Diners and Other Non-Indoor Dining Workers. **Effective January 3, 2022,** no business shall permit an individual who has not received a Completed Vaccination Series, including a customer, client, volunteer or employee of a contractor of the business (but not including an individual with respect to whom the provisions of Sections 3 (Indoor Dining Workers), above, or Section 5 (Athletes, Performers, and Supporting Staff), below, apply), to be present at an Indoor Dining Location operated by such business or where such business operates unless:

(i) The individual has received a religious or medical exemption under subsection (B), below, or is a child under 12 that is excepted or subject to a modified requirement under subsections (C), below; and

(ii) For Indoor Seating Locations that seat more than 1,000 people only, the unvaccinated individual is over five (5) years and 3 months of age, the individual has submitted a negative PCR or antigen test for COVID-19 from a sample that was collected from such individual within twenty-four (24) hours of the date of entrance to the Indoor Dining Location.

(B) Medical and Religious Exemptions. An individual may establish an exemption for purposes of this Section 4 by signing a certification as follows, subject to the requirements and penalties of Section 1-108 of The Philadelphia Code.

(i) Medical Exemption. For the purpose of this Regulation only, a certification signed by a licensed healthcare provider (meaning a physician, nurse practitioner, or physician assistant, licensed by an authorized state licensing board) who has conducted an in-person physical examination of the individual on at least one occasion certifying that receiving an any Approved COVID-19 Vaccine would be detrimental to the health of the individual and that the healthcare provider has medically advised the individual not to receive any Approved COVID-19 Vaccine. The certification shall include the signature, printed name, and contact information of the individual and the licensed healthcare provider and shall be in substantially the same form as a sample certification that the Department shall make available on the Department's website.

(ii) Religious Exemption. For the purpose of this Regulation only, an exemption shall be granted if the individual certifies in writing that such individual has a sincerely held religious belief that precludes such individual from receiving any Approved COVID-19 Vaccine; and that the individual understands that philosophical, moral, or other non-religious objections to receiving the vaccine will not be accepted. The certification shall include the signature, printed name, and contact information of the individual and shall be in substantially the same form as a sample certification that the Department shall make available on the Department's website.

(C) Exception and Modified Rules For Children Under 12.

(i) For the purpose of this Regulation and the requirements of this Section 4, an individual that is in an age group for which there is no Approved COVID-19 Vaccine, currently individuals under five (5) years of age, is not subject to the vaccination requirements of this Regulation until such individual has qualified for vaccination for at least three months. No certification shall be required to be submitted or maintained related to this age-based exception.

(ii) Prior to **February 3, 2022**, children five (5) years and three (3) months of age and older, but under twelve (12) years of age, are subject to a modified requirement and are excepted from the requirement to have received a full Completed Vaccination Series, so long as such child has received at least one dose of an Approved COVID-19 Vaccine at the time the child seeks to enter the Indoor Dining Location. This modified requirement expires February 3, 2022.

Section 5. Athletes, Performers, and Supporting Staff.

Athletes, performers, and supporting staff (such as coaches, trainers, road crew, and similar supportive staff) competing or performing at Indoor Dining Locations are not subject to this Regulation but must strictly comply with a safety plan approved by the Department for the facility at issue.

Section 6. Verifying Vaccine Status and Exemptions. Businesses governed by this Regulation may rely in good faith on (A) observably credible records of vaccination status provided by an individual, including Indoor Dining Workers, such as copies or pictures of a Center for Disease Control Vaccination Card or a state or authorized local government issued vaccination record; (B) a certification provided by an Indoor Dining Worker consistent with Section 3(B) or a certification provided by any other individual consistent with Section 4(B) of this Regulation. Individuals eighteen years of age or older must provide a photo identification card, or such other reliable form of identification identified by the Department in guidance, to establish identity consistent with the vaccine status and exemption documentation provided.

Section 7. Interpretation and Implementation:

(A) Stricter Regulation Permitted. Nothing in this Regulation prohibits any business, entity, or individual from implementing more stringent vaccine, masking, distancing or other or mandate on its customers or those it employs, contracts with, or engages in a volunteer capacity, whether or not such business or individual is covered under this Regulation, subject to all applicable law. Businesses choosing to impose more stringent requirements must comply with all other applicable laws, including but not limited to the Americans with Disabilities Act of 1990.

(B) Conflicts. Except to the extent of a direct conflict, this regulation shall be interpreted as consistent with applicable orders and requirements of the Commonwealth of Pennsylvania. In the event of a direct conflict, the most restrictive order or requirement controls. The City shall continue reviewing inquiries and submissions regarding the applicability of the City's orders to businesses and activities.

(C) Inspection Required. Each business serving or providing food at an Indoor Dining Location or at an Indoor Dining Location must allow inspection of records required to be maintained under Sections 3(D) and ongoing operations by the Department as a condition of operation. Copies of such records must be provided to the Department upon request. Any records inspected by or provided to the Department will be maintained confidentially consistent with the requirements of 35 P.S. § 521.15.

(D) Individual Liability. Falsely submitting certifications required by this Regulation shall be a violation of Section 1-108 of The Philadelphia Code.

(E) Penalties. Failure to comply with this Regulation shall result in orders to cease operations and the imposition of penalties, fines, license suspensions, and other remedies as provided for by law, including such penalties and remedies set forth in the April 29, 2020, Emergency Regulation of the Board of Health Governing the Control and Prevention of COVID-19 Pertaining to Fines and Penalties.

(F) **Duration.** This regulation shall remain in effect until rescinded, superseded or amended by further order or regulation.

(G) **Guidance.** The Department of Health is directed to promulgate guidance by order or otherwise to interpret and otherwise implement the requirements of this Regulation.

Section 7. Effective Date: This regulation is effective immediately upon the filing of this regulation with the Department of Records.

ORDER OF THE COMMISSIONER OF HEALTH OF THE CITY OF CHICAGO

No. 2021-2

(Proof of Vaccination in Public Places)

Effective: January 3, 2022

WHEREAS, In Executive Order No. 2021-32 (COVID-19 Executive Order No. 96), filed on December 10, 2021, the Governor of Illinois affirmed that a local government body may enact provisions that are stricter than those in the Executive Order; and

WHEREAS, As the Governor of Illinois has affirmed, each region of the State faces different challenges from the COVID-19 pandemic and accordingly faces different timelines for reopening; and

WHEREAS, On November 30, 2021, the SARS-CoV-2 Interagency Group classified the Omicron variant as a variant of concern in the United States; and

WHEREAS, On December 7, 2021, the first infection of the Omicron variant in the City of Chicago was confirmed; and

WHEREAS, In light of the rapid and unpredictable spread of the Omicron variant, it is foreseeable that the vaccination requirements in this Order will be expanded in the near future; and

WHEREAS, The Commissioner of Health ("Commissioner") will continue to closely monitor public health data and make well-informed determinations regarding appropriate restrictions; and

WHEREAS, The Municipal Code of Chicago ("Code") authorizes the Commissioner to implement emergency measures to stop the spread of communicable diseases, and to protect the health, safety, and welfare of the City's residents, including but not limited to authority granted in Sections 2-112-050, 2-112-110(a)(4), and 2-112-130 of the Code, in addition to 77 Ill. Adm. Code Sections 690.1305(a) and 690.1310(c); now, therefore,

The Commissioner of Health of the City of Chicago hereby orders as follows:

SECTION 1. For purposes of this Order, the following definitions apply:

"Covered entity" means any entity that operates one or more covered locations within the City of Chicago.

"Covered Location" means the following:

1. Establishments where food or beverages are served, including but not limited to restaurants, bars, fast food establishments, coffee shops, tasting rooms, cafeterias, food courts, dining areas of grocery stores, breweries, wineries, distilleries, banquet halls, and hotel ballrooms; and
2. Gyms and fitness venues, including but not limited to gyms, recreation facilities, fitness centers, yoga, pilates, cycling, barre, and dance studios, hotel gyms, boxing and kickboxing gyms, fitness boot camps, and other facilities used for conducting indoor group fitness classes; and
3. Entertainment and recreation venues in areas where food or beverages are served, including but not limited to movie theaters, music and concert venues, live performance venues, adult entertainment venues, commercial event and party venues, sports arenas, performing arts theaters, bowling alleys, arcades, card rooms, family entertainment centers, play areas, pool and billiard halls, and other recreational game centers.
4. "Covered locations" do not include houses of worship, K-12 schools, locations in O'Hare International Airport or Midway International Airport, locations in residential or office buildings the use of which is limited to residents, owners, or tenants of that building, or to food service establishments providing only charitable food services, such as soup kitchens.

"COVID-19" means coronavirus disease 2019 caused by severe acute respiratory coronavirus 2 (SARS-CoV-2).

"Identification" means an official document bearing the name of the individual and a photograph. Examples of acceptable identification include but are not limited to: driver's license, non-driver government ID card, passport, and school ID card.

"Indoor portion" means any part of a covered location with a roof or overhang that is enclosed on at least three sides, except that a temporary outdoor structure that holds multiple parties that has at least 50% of the sides open to allow airflow will not be considered an indoor portion, nor a dining structure for individual parties, such as a plastic dome, if it has adequate ventilation to allow for air circulation.

"Nonresident" means any individual who is not a resident of the City of Chicago.

"Patron" means any individual 5 years of age or older who patronizes, enters, attends an event, or purchases goods or services within a covered location.

"Proof of full vaccination" means proof that an individual has been fully vaccinated, with "fully vaccinated" status determined by Centers for Disease Control and Prevention guidance or Chicago Department of Public Health posted guidelines, whichever is the most restrictive.

Such proof may be established by:

1. A CDC COVID-19 Vaccination Record Card or an official immunization record from the jurisdiction, state, or country where the vaccine was administered or a digital or physical photo of such a card or record, reflecting the person's name, vaccine brand, and dates administered; or
2. Any other method specified by the Commissioner as sufficient to demonstrate proof of full vaccination.

SECTION 2. Notwithstanding any other provision of law, a covered entity shall not permit any patron to enter the indoor portion of a covered location without displaying proof of full vaccination. Additionally, any individual over the age of 16 shall provide identification bearing the same identifying information as the proof of full vaccination. A covered entity may in the interests of efficiency allow patrons to provide the requisite proof prior to entry, either directly to the covered entity or through an intermediary such as an event planner.

SECTION 3. Each covered entity shall develop and keep a written record describing the protocol for implementing and enforcing the requirements of this Order. Such written record shall be available for inspection upon request of any City official authorized to enforce this Order.

SECTION 4. All covered entities shall prominently post signage, in a form prescribed by the Commissioner of Business Affairs and Consumer Protection, at each publicly accessible entrance to the covered location and at least one location inside the covered location that is conspicuously visible, informing patrons of the full vaccination requirement.

SECTION 5. The following individuals are exempted from this Order:

1. Individuals entering a covered location for less than 10 minutes for the purpose of ordering and carrying out food, making a delivery, or using the bathroom;
2. A nonresident performing artist who does not regularly perform or render services in a covered location, or a nonresident individual accompanying such a performing artist, while the performing artist or individual is in a covered location for the purposes of such artist's performance;
3. A nonresident professional athlete, or a nonresident individual accompanying such professional athlete, who enters a covered location as part of their regular employment for purposes of the professional athlete/sports team competition;
4. Individuals who have previously received a medical or religious exemption, provided such patrons provide the covered entity proof of the medical or religious exemption and a COVID-19 test administered by a medical professional within the last 72 hours prior to entering a covered location.
5. An individual 18 years of age or younger who enters a covered location to participate in an activity organized by a school or after-school program offered by any pre-kindergarten through grade twelve public or non-public school; and
6. An individual who enters for the purposes of voting in a municipal, state, or federal election; or, pursuant to law, assisting or accompanying a voter or observing such election.

SECTION 6. All covered entities shall comply with OSHA standards 1910.501(e) & (g) relating to employee vaccination status and testing, regardless of the number of their employees.

SECTION 7. Pursuant to Sections 2-112-040 and 2-112-050 of the Code, in conjunction with enforcement authority granted in the Code, this Order may be enforced by the Commissioner of Business Affairs and Consumer Protection, the Commissioner of the Buildings, or the Chicago Police Department, in addition to the Commissioner of Health.

SECTION 8. In addition to any other penalty provided by law, any covered entity who violates this Order shall be subject to arrest, and to the fines set forth in Section 2-112-340 of the Code. Further, any covered entity that fails to enforce this Order shall be subject to

sanctions, including, but not limited to, closure pursuant to Sections 2-112-050 and 2-112-170 of the Code.

SECTION 9. This Order shall remain in effect until the Commissioner makes a written determination that the threat to public health posed by COVID-19 has diminished to the point that this Order can be safely repealed.

SECTION 10. In the event of a conflict or inconsistency between this Order and any other Public Health Order, Executive Order, or the Phase 5 Guidance, the more restrictive alternative applies.

SECTION 11. If any provision of this Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Order are declared to be severable. This Order is meant to be read consistently with any court order regarding this Order.



Allison Arwady, M.D.,

Commissioner of Health of the City of Chicago

Issued: December 21, 2021